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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/637,153	08/08/2003	Yoshiaki Aso	NGB-14961	3408
40854	7590	12/07/2004		
RANKIN, HILL, PORTER & CLARK LLP				
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WILLOUGHBY, OH 44094-7836				
			EXAMINER	
			THERKORN, ERNEST G	
			ART UNIT	PAPER NUMBER
			1723	

DATE MAILED: 12/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/637,153

Applicant(s)

ASO, YOSHIAKI

Examiner

Ernest G. Therkorn

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on August 21, 2003 & November 20, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 1723

Claim 2 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification does not teach how the parallel sets of Figure 3 can be formed in the Figure 2 device with Figure 1 plates.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 102(B) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ashmead (U.S. Patent No. 5,690,763). The claim is considered to be anticipated by Ashmead (U.S. Patent No. 5,690,763). However, if a difference exists between the claim and Ashmead (U.S.

Art Unit: 1723

Patent No. 5,690,763), it would reside in optimizing the elements of Ashmead (U.S. Patent No. 5,690,763). It would have been obvious to optimize the elements of Ashmead (U.S. Patent No. 5,690,763) to enhance mixing.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ashmead (U.S. Patent No. 5,690,763) as applied to claim 1 above, and further in view of Hemker (U.S. Patent No. 3,856,270). At best, the claim differs from Ashmead (U.S. Patent No. 5,690,763) in reciting use of a plurality of sets. Hemker (U.S. Patent No. 3,856,270) (column 1, lines 27-40) discloses that use of a repeating series of plates provides for rapid and thorough blending. It would have been obvious to use a repeating series of plates in Ashmead (U.S. Patent No. 5,690,763) because Hemker (U.S. Patent No. 3,856,270) (column 1, lines 27-40) discloses that use of a repeating series of plates provides for rapid and thorough blending.

Claims 1 and 2 are rejected under 35 U.S.C. 102(B) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ashmead (U.S. Patent No. 5,690,763). The claims are considered to be anticipated by Ashmead (U.S. Patent No. 5,690,763). However, if a difference exists between the claims and Ashmead (U.S. Patent No. 5,690,763), it would reside in optimizing the elements of Ashmead (U.S. Patent No. 5,690,763). It would have been obvious to optimize the elements of Ashmead (U.S. Patent No. 5,690,763) to enhance mixing.

Claim 1 is rejected under 35 U.S.C. 102(A) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Japan Patent Publication No. 2003-156481 including the submitted translation. The claim is considered to be anticipated

by Japan Patent Publication No. 2003-156481 including the submitted translation. However, if a difference exists between the claim and Japan Patent Publication No. 2003-156481 including the submitted translation, it would reside in optimizing the elements of Japan Patent Publication No. 2003-156481. It would have been obvious to optimize the elements of Japan Patent Publication No. 2003-156481 including the submitted translation to enhance mixing.

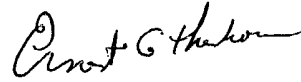
Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Japan Patent Publication No. 2003-156481 including the submitted translation as applied to claim 1 above, and further in view of Hemker (U.S. Patent No. 3,856,270). At best, the claim differs from Japan Patent Publication No. 2003-156481 including the submitted translation in reciting use of a plurality of sets. Hemker (U.S. Patent No. 3,856,270) (column 1, lines 27-40) discloses that use of a repeating series of plates provides for rapid and thorough blending. It would have been obvious to use a repeating series of plates in Japan Patent Publication No. 2003-156481 including the submitted translation because Hemker (U.S. Patent No. 3,856,270) (column 1, lines 27-40) discloses that use of a repeating series of plates provides for rapid and thorough blending.

Any inquiry concerning this communication should be directed to E. Therkorn at telephone number (571) 272-1149. The official fax number is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

Art Unit: 1723

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ernest G. Therkorn
Primary Examiner
Art Unit 1723

EGT
December 3, 2004